

## FIRST DIVISION

[ G.R. NO. 151815, February 23, 2005 ]

**SPOUSES JUAN NUGUID AND ERLINDA T. NUGUID,  
PETITIONERS, VS. HON. COURT OF APPEALS AND PEDRO P.  
PECSON, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This is a petition for review on certiorari of the **Decision**<sup>[1]</sup> dated May 21, 2001, of the Court of Appeals in CA-G.R. CV No. 64295, which modified the Order dated July 31, 1998 of the Regional Trial Court (RTC) of Quezon City, Branch 101 in Civil Case No. Q-41470. The trial court ordered the defendants, among them petitioner herein Juan Nuguid, to pay respondent herein Pedro P. Pecson, the sum of P1,344,000 as reimbursement of unrealized income for the period beginning November 22, 1993 to December 1997. The appellate court, however, reduced the trial court's award in favor of Pecson from the said P1,344,000 to P280,000. Equally assailed by the petitioners is the appellate court's **Resolution**<sup>[2]</sup> dated January 10, 2002, denying the motion for reconsideration.

It may be recalled that relatedly in our Decision dated May 26, 1995, in G.R. No. 115814, entitled *Pecson v. Court of Appeals*, we set aside the decision of the Court of Appeals in CA-G.R. SP No. 32679 and the Order dated November 15, 1993, of the RTC of Quezon City, Branch 101 and remanded the case to the trial court for the determination of the current market value of the four-door two-storey apartment building on the 256-square meter commercial lot.

The antecedent facts in this case are as follows:

Pedro P. Pecson owned a commercial lot located at 27 Kamias Road, Quezon City, on which he built a four-door two-storey apartment building. For failure to pay realty taxes, the lot was sold at public auction by the City Treasurer of Quezon City to Mamerto Nepomuceno, who in turn sold it for P103,000 to the spouses Juan and Erlinda Nuguid.

Pecson challenged the validity of the auction sale before the RTC of Quezon City in Civil Case No. Q-41470. In its Decision<sup>[3]</sup> dated February 8, 1989, the RTC upheld the spouses' title but declared that the four-door two-storey apartment building was not included in the auction sale.<sup>[4]</sup> This was affirmed *in toto* by the Court of Appeals and thereafter by this Court, in its Decision<sup>[5]</sup> dated May 25, 1993, in G.R. No. 105360 entitled *Pecson v. Court of Appeals*.

On June 23, 1993, by virtue of the Entry of Judgment of the aforesaid decision in G.R. No. 105360, the Nuguids became the uncontested owners of the 256-square

meter commercial lot.

As a result, the Nuguid spouses moved for delivery of possession of the lot and the apartment building.

In its Order<sup>[6]</sup> of November 15, 1993, the trial court, relying upon Article 546<sup>[7]</sup> of the Civil Code, ruled that the Spouses Nuguid were to reimburse Pecson for his construction cost of P53,000, following which, the spouses Nuguid were entitled to immediate issuance of a writ of possession over the lot and improvements. In the same order the RTC also directed Pecson to pay the same amount of monthly rentals to the Nuguids as paid by the tenants occupying the apartment units or P21,000 per month from June 23, 1993, and allowed the offset of the amount of P53,000 due from the Nuguids against the amount of rents collected by Pecson from June 23, 1993 to September 23, 1993 from the tenants of the apartment.<sup>[8]</sup>

Pecson duly moved for reconsideration, but on November 8, 1993, the RTC issued a Writ of Possession,<sup>[9]</sup> directing the deputy sheriff to put the spouses Nuguid in possession of the subject property with all the improvements thereon and to eject all the occupants therein.

Aggrieved, Pecson then filed a special civil action for certiorari and prohibition docketed as CA-G.R. SP No. 32679 with the Court of Appeals.

In its decision of June 7, 1994, the appellate court, relying upon Article 448<sup>[10]</sup> of the Civil Code, affirmed the order of payment of construction costs but rendered the issue of possession moot on appeal, thus:

WHEREFORE, while it appears that private respondents [spouses Nuguid] have not yet indemnified petitioner [Pecson] with the cost of the improvements, since Annex I shows that the Deputy Sheriff has enforced the Writ of Possession and the premises have been turned over to the possession of private respondents, the quest of petitioner that he be restored in possession of the premises is rendered moot and academic, although it is but fair and just that private respondents pay petitioner the construction cost of P53,000.00; and that petitioner be ordered to account for any and all fruits of the improvements received by him starting on June 23, 1993, with the amount of P53,000.00 to be offset therefrom.

IT IS SO ORDERED.<sup>[11]</sup> [Underscoring supplied.]

Frustrated by this turn of events, Pecson filed a petition for review docketed as G.R. No. 115814 before this Court.

On May 26, 1995, the Court handed down the decision in G.R. No 115814, to wit:

WHEREFORE, the decision of the Court of Appeals in CA-G.R. SP No. 32679 and the Order of 15 November 1993 of the Regional Trial Court, Branch 101, Quezon City in Civil Case No. Q-41470 are hereby SET ASIDE.

The case is hereby remanded to the trial court for it to determine the

current market value of the apartment building on the lot. For this purpose, the parties shall be allowed to adduce evidence on the current market value of the apartment building. The value so determined shall be forthwith paid by the private respondents [Spouses Juan and Erlinda Nuguid] to the petitioner [Pedro Pecson] otherwise the petitioner shall be restored to the possession of the apartment building until payment of the required indemnity.

No costs.

SO ORDERED.<sup>[12]</sup> [Emphasis supplied.]

In so ruling, this Court pointed out that: (1) Article 448 of the Civil Code is not apposite to the case at bar where the owner of the land is the builder, sower, or planter who then later lost ownership of the land by sale, but may, however, be applied by analogy; (2) the current market value of the improvements should be made as the basis of reimbursement; (3) Pecson was entitled to retain ownership of the building and, necessarily, the income therefrom; (4) the Court of Appeals erred not only in upholding the trial court's determination of the indemnity, but also in ordering Pecson to account for the rentals of the apartment building from June 23, 1993 to September 23, 1993.

On the basis of this Court's decision in G.R. No. 115814, Pecson filed a Motion to Restore Possession and a Motion to Render Accounting, praying respectively for restoration of his possession over the subject 256-square meter commercial lot and for the spouses Nuguid to be directed to render an accounting under oath, of the income derived from the subject four-door apartment from November 22, 1993 until possession of the same was restored to him.

In an Order<sup>[13]</sup> dated January 26, 1996, the RTC denied the Motion to Restore Possession to the plaintiff averring that the current market value of the building should first be determined. Pending the said determination, the resolution of the Motion for Accounting was likewise held in abeyance.

With the submission of the parties' assessment and the reports of the subject realty, and the reports of the Quezon City Assessor, as well as the members of the duly constituted assessment committee, the trial court issued the following Order<sup>[14]</sup> dated October 7, 1997, to wit:

On November 21, 1996, the parties manifested that they have arrived at a compromise agreement that the value of the said improvement/building is P400,000.00. The Court notes that the plaintiff has already received P300,000.00. However, when defendant was ready to pay the balance of P100,000.00, the plaintiff now insists that there should be a rental to be paid by defendants. Whether or not this should be paid by defendants, incident is hereby scheduled for hearing on November 12, 1997 at 8:30 a.m.

Meantime, defendants are directed to pay plaintiff the balance of P100,000.00.

SO ORDERED.<sup>[15]</sup>

On December 1997, after paying the said P100,000 balance to Pedro Pecson the spouses Nuguid prayed for the closure and termination of the case, as well as the cancellation of the notice of *lis pendens* on the title of the property on the ground that Pedro Pecson's claim for rentals was devoid of factual and legal bases.<sup>[16]</sup>

After conducting a hearing, the lower court issued an Order dated July 31, 1998, directing the spouses to pay the sum of P1,344,000 as reimbursement of the unrealized income of Pecson for the period beginning November 22, 1993 up to December 1997. The sum was based on the computation of P28,000/month rentals of the four-door apartment, thus:

The Court finds plaintiff's motion valid and meritorious. The decision of the Supreme Court in the aforesaid case [*Pecson vs. Court of Appeals*, 244 SCRA 407] which set aside the Order of this Court of November 15, 1993 has in effect upheld plaintiff's right of possession of the building for as long as he is not fully paid the value thereof. It follows, as declared by the Supreme Court in said decision that the plaintiff is entitled to the income derived therefrom, thus –

. . .

Records show that the plaintiff was dispossessed of the premises on November 22, 1993 and that he was fully paid the value of his building in December 1997. Therefore, he is entitled to the income thereof beginning on November 22, 1993, the time he was dispossessed, up to the time of said full payment, in December 1997, or a total of 48 months.

The only question left is the determination of income of the four units of apartments per month. But as correctly pointed out by plaintiff, the defendants have themselves submitted their affidavits attesting that the income derived from three of the four units of the apartment building is P21,000.00 or P7,000.00 each per month, or P28,000.00 per month for the whole four units. Hence, at P28,000.00 per month, multiplied by 48 months, plaintiff is entitled to be paid by defendants the amount of P1,344,000.00.<sup>[17]</sup>

The Nuguid spouses filed a motion for reconsideration but this was denied for lack of merit.<sup>[18]</sup>

The Nuguid couple then appealed the trial court's ruling to the Court of Appeals, their action docketed as CA-G.R. CV No. 64295.

In the Court of Appeals, the order appealed from in CA-G.R. CV No. 64295, was modified. The CA reduced the rentals from P1,344,000 to P280,000 in favor of the appellee.<sup>[19]</sup> The said amount represents accrued rentals from the determination of the current market value on January 31, 1997<sup>[20]</sup> until its full payment on December 12, 1997.

Hence, petitioners state the sole assignment of error now before us as follows:

THE COURT OF APPEALS ERRED IN HOLDING PETITIONERS LIABLE TO PAY RENT OVER AND ABOVE THE CURRENT MARKET VALUE OF THE IMPROVEMENT WHEN SUCH WAS NOT PROVIDED FOR IN THE